

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOHN KINCAID,

Defendant.

8:07CR447

ORDER

Defendant John Kincaid (Kincaid) appeared before the court on December 18, 2013, on the Amended Petition for Warrant or Summons for Offender Under Supervision (Petition) (Filing No. 43). Kincaid was represented by Assistant Federal Public Defender Karen M. Shanahan and the United States was represented by Assistant U.S. Russell X. Mayer. Through his counsel, Kincaid waived his right to a probable cause hearing on the Petition pursuant to Fed. R. Crim. P. 32.1(a)(1). I find that the Petition alleges probable cause and Kincaid should be held to answer for a final dispositional hearing before Judge Joseph F. Bataillon.

The government moved for detention. Through counsel, Kincaid declined to present any evidence or request a hearing on the issue of detention. Since it is Kincaid's burden under 18 U.S.C. § 3143 to establish by clear and convincing evidence that he is neither a flight risk nor a danger to the community, the court finds Kincaid has failed to carry his burden and that Kincaid should be detained pending a dispositional hearing before Judge Bataillon.

IT IS ORDERED:

1. A final dispositional hearing will be held before Judge Joseph F. Bataillon in Courtroom No. 3, Third Floor, Roman L. Hruska U.S. Courthouse, 111 South 18th Plaza, Omaha, Nebraska, **at 1:00 p.m. on January 22, 2014**. Defendant must be present in person.

2. Defendant John Kincaid is committed to the custody of the Attorney General or his designated representative for confinement in a correctional facility;

3. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel; and

4. Upon order of a United States court or upon request of an attorney for the government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED this 19th day of December, 2013.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge